**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Criminal Misc. Application NO. 1004 of 2004

Musharrat s/o Bhure Khan, Village Sikroda
P.S. Bhagwanpur, District Haridwar ..... Applicant

Versus

1. State of Uttaranchal
Constable 147 CP Balveer Singh, P.S. Bhagwanpur,
District Haridwar ..... Respondents

Dated: 7.12.2006

**Hon'ble Rajesh Tandon, J.**

Heard Sri K.S. Verma counsel for the petitioner and A.G.A. for the State.

By the present application under section 482 Cr.P.C. the applicant has prayed for quashing the proceedings in criminal Case No. 589 of 2006 State Vs. Zishan and others under section 379 I.P.C. pending in the Court of Judicial Magistrate, Roorkee.

Briefly stated the respondent no.2 lodged a report at P.S. Bhagwanpur, District Haridwar on 6.5.2006 against the applicant and two other persons that they were carrying Season wood for selling in the market and on this F.I.R. was lodged for the office punishable under section 379 I.P.C. The police started investigation.

The applicant filed a writ petition No. 653 of 2006 before this High Court and the Court vide order dated 7.6.06 directed the police not to arrest the applicant till submission of charge sheet. According to applicant, the police has submitted charge

sheet against the accused applicant and Judicial Magistrate, Roorkee has taken cognizance on it.

At this stage I find no infirmity in the case as a bare perusal of the F.I.R. shows that a case under a cognizable offence against the accused has been filed.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. in order to short-circuit the trial. Both the parties will be at liberty to lead the evidence. In view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269. I find no ground to interfere under section 482 Cr.P.C.

However, if the applicant surrenders in the trial Court, his bail application may be heard and disposed of expeditiously without any delay.

Subject to the above observation, application under section 482 is dismissed.

**(Rakesh Tandon, J.)**

Dated: 7.12.2006

*Dhyani